

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JEFFREY R. OBSTARCZYK,
Plaintiff,

v.

ORDER
08-CV-099A

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(3). On October 8, 2009, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion for judgment on the pleadings be denied and that plaintiff's cross motion for judgment on the pleadings be granted in part and denied in part.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and plaintiff's cross motion for judgment on the pleadings is granted in part and denied in part and the case is remanded to the Commissioner for further proceedings consistent with the Report and Recommendation.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: November , 2009